

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

LEONOR LARA BORROTO,

Plaintiff,

v.

Case No.: 2:19-cv-356-FtM-38NPM

WAL-MART STORES EAST, LP.,

Defendant.

ORDER¹

Before the Court is Defendant's Motion for Summary Judgment ([Doc. 49](#)) and Plaintiff's Unopposed Motion for Extension of Time ([Doc. 53](#)).

At the parties' joint request, the Court extended the discovery deadline to September 30, 2020. ([Doc. 46](#)). This extension accommodated the depositions of four witnesses. Then, on the dispositive motion deadline, Defendant moved for an extension of that deadline while filing the instant Motion for Summary Judgment. ([Docs. 47; 49](#)). The Court granted the extension of time, so the dispositive motion deadline is now October 5, 2020. ([Doc. 52](#)). In its Motion for Summary Judgment, Defendant requests leave to amend if additional discovery is relevant. ([Doc. 49 at 1](#)). And now, Plaintiff seeks an extension of time (until after discovery) to respond to summary judgment.

In general, courts should not grant summary judgment before the nonmovant can conduct enough discovery. [Jones v. City of Columbus, Ga.](#), 120 F.3d 248, 253 (11th Cir.

¹ Disclaimer: Documents hyperlinked to CM/ECF are subject to PACER fees. By using hyperlinks, the Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide, nor does it have any agreements with them. The Court is also not responsible for a hyperlink's availability and functionality, and a failed hyperlink does not affect this Order.


1997); *Snook v. Tr. Co. of Ga. Bank of Savannah, N.A.*, 859 F.2d 865, 870 (11th Cir. 1988). Here, both the extended discovery and dispositive motion deadlines have not passed. While Plaintiff has not made an express request for more time under Rule 56(d), the petition seeks that relief. What is more, Defendant agrees to an extension of time for the response until after the extended deadlines. And Defendant requests leave to amend the Motion for Summary Judgment considering four later depositions that appear relevant to the dispute. Given this, the Court will deny Defendant's Motion for Summary Judgment without prejudice. On or before the extended deadline, Defendant can refile a summary judgment motion incorporating all pertinent discovery without needing to amend piecemeal. (Doc. 52). Thus, Plaintiff's Motion is moot.

Accordingly, it is now

ORDERED:

- (1) Defendant's Motion for Summary Judgment (Doc. 49) is **DENIED without prejudice**. Defendant may refile a complete summary judgment motion on or before the extended deadline of October 5, 2020.
- (2) Plaintiff's Unopposed Motion for Extension of Time (Doc. 53) is **DENIED as moot**.

DONE and **ORDERED** in Fort Myers, Florida this 14th day of August, 2020.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record